

1 DAVID R. ZARO (BAR NO. 124334)
TED FATES (BAR NO. 227809)
2 ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP
3 515 South Figueroa Street, Ninth Floor
Los Angeles, California 90071-3309
4 Phone: (213) 622-5555
Fax: (213) 620-8816
5 E-Mail: dzaro@allenmatkins.com
tfates@allenmatkins.com

6 Attorneys for Receiver
7 THOMAS A. SEAMAN

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DISTRICT

11 SECURITIES AND EXCHANGE
COMMISSION,

12 Plaintiff,

13 vs.

14 SMALL BUSINESS CAPITAL CORP.;
15 MARK FEATHERS; INVESTORS PRIME
FUND, LLC; and SBC PORTFOLIO
16 FUND, LLC,

17 Defendants.

Case No. CV12-03237

**RECEIVER'S RESPONSE TO REQUEST
FOR A DETERMINATION FROM THIS
COURT IF THE RECEIVER HAS
COMMITTED AN ACT OF GROSS
NEGLIGENCE AND IF THE RECEIVER
HAS LOST PERSONAL LIABILITY
PROTECTION AFFORDED TO HIM
UNDER SECTION XIII OF THE ORDER
FOR HIS APPOINTMENT (COURT
DOCKET 34)**

Date: February 6, 2014
Time: 9:00 a.m.
Ctrm: 4 - 5th Floor
Judge: Hon. Edward J. Davila

1 Thomas A. Seaman ("Receiver"), the Court-appointed permanent receiver for Small
2 Business Capital Corp. ("SB Capital"), Investors Prime Fund, LLC ("IPF"), SBC Portfolio
3 Fund, LLC ("SPF"), and their subsidiaries and affiliates (collectively, "Receivership Entities"),
4 hereby responds to Defendant Mark Feathers' request for a determination from this Court if the
5 Receiver has committed an act of gross negligence and if the Receiver has lost personal liability
6 protection afforded to him under Section XIII of the Order for his appointment (Court Docket 34).

7 Mr. Feathers has not and cannot present evidence of any act of gross negligence by the
8 Receiver. Accordingly, the Receiver respectfully submits Mr. Feathers' requests should be
9 denied.

10
11 Dated: October 2, 2014

ALLEN MATKINS LECK GAMBLE
MALLORY & NATSIS LLP

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13 By: /s/ Ted Fates

14 TED FATES
15 Attorneys for Receiver
16 Thomas A. Seaman
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PROOF OF SERVICE

I am employed in the County of San Diego, State of California. I am over the age of 18 and not a party to the within action. My business address is 501 West Broadway, 15th Floor, San Diego, California 92101-3541.

On October 2, 2014, I served on interested parties in said action the within:

➤ **RECEIVER'S RESPONSE TO REQUEST FOR A DETERMINATION FROM THIS COURT IF THE RECEIVER HAS COMMITTED AN ACT OF GROSS NEGLIGENCE AND IF THE RECEIVER HAS LOST PERSONAL LIABILITY PROTECTION AFFORDED TO HIM UNDER SECTION XIII OF THE ORDER FOR HIS APPOINTMENT (COURT DOCKET 34)**

☒ **BY U.S. MAIL:** by placing a true copy thereof in sealed envelope(s), addressed as indicated below. I am readily familiar with this firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service in San Diego County on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

Mark Feathers
1520 Grant Road
Los Altos, California 94024

Pro Se Defendant

Tel: (650) 776-2496
Fax: (650) 961-2382
Email: markfeathers@sbcglobal.net

☐ **BY OVERNIGHT DELIVERY:** by placing a true copy thereof in sealed envelope(s), addressed as indicated below. I am readily familiar with this firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited in a box or other facility regularly maintained by express service carrier, or delivered to a courier or driver authorized by said express service carrier to receive documents, a true copy of the foregoing document(s) in sealed envelopes or packages designated by the express service carrier, with fees for overnight delivery paid or provided for.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on October 2, 2014, at San Diego, California.

Ted Fates

(Type or print name)

/s/ Ted Fates

(Signature)